

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>JAMIE LYNN GALLIAN 16222 MONTEREY LANE UNIT 376 HUNTINGTON BEACH, CA 92649 (714)321-3449 JAMIEGALLIAN@GMAIL.COM</p>	<p>FOR COURT USE ONLY</p>
<p><input checked="" type="checkbox"/> <i>Individual appearing without attorney</i></p> <p><input type="checkbox"/> <i>Attorney for:</i></p>	
<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION</p>	
<p>In re: JAMIE LYNN GALLIAN</p>	<p>CASE NO.: 8:21-ap-01096-SC CHAPTER: 7</p>
<p>NOTICE OF MOTION FOR: (1) MOTION TO DISMISS ADVERSARY COMPLAINT [DOC-63], FILED 11/8/2022 (2) ORDER [FILED & ENTERED DEC. 2, 2022] CONTINUING HEARING ON MOTION TO DISMISS IS ATTACHED FOR THE CONVENIENCE OF THE COURT AND THE PARTIES.</p> <p><i>(Specify name of Motion)</i></p>	
<p>DATE: 01/10/2023 TIME: 1:30 pm COURTRoom: 5C via ZoomGov PLACE: 411 West Fourth Street Santa Ana, CA 92701</p>	

1. TO (*specify name*): JANINE B. JASSO, ESQ.
 2. NOTICE IS HEREBY GIVEN that on the following date and time and in the indicated courtroom, Movant in the above-captioned matter will move this court for an Order granting the relief sought as set forth in the Motion and accompanying supporting documents served and filed herewith. Said Motion is based upon the grounds set forth in the attached Motion and accompanying documents.
 3. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

4. **Deadline for Opposition Papers:** This Motion is being heard on regular notice pursuant to LBR 9013-1. If you wish to oppose this Motion, you must file a written response with the court and serve a copy of it upon the Movant or Movant's attorney at the address set forth above no less than fourteen (14) days prior to the above hearing date. If you fail to file a written response to this Motion within such time period, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.
5. **Hearing Date Obtained Pursuant to Judge's Self-Calendar Procedure:** The undersigned hereby verifies that the above hearing date and time were available for this type of Motion according to the judge's self-calendaring procedures.

Date: 12/03/2022

Printed name of law firm



Signature

JAMIE LYNN GALLIAN

Printed name of attorney

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
5801 SKYLAB ROAD HUNTINGTON BEACH, CA 92647

A true and correct copy of the foregoing document entitled: **NOTICE OF MOTION FOR (specify name of motion)**
MOTION TO DISMISS ADVERSARY COMPLAINT-[DOC-63]

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 12/03/2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (date) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

JANINE B. JASSO, ESQ EMAIL ADDRESS J9_JASSO@YAHOO.COM

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

12/03/2022 ROBERT MCLELLAND
Date Printed Name


Signature bobwentflying@yahoo.com

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

ADDITIONAL SERVICE INFORMATION (if needed):

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")

Aaron E DE Leest on behalf of Trustee Jeffrey I Golden (TR)
adeleest@DanningGill.com, danninggill@gmail.com;adeleest@ecf.inforuptcy.com

Robert P Goe on behalf of Creditor The Huntington Beach Gables Homeowners Association
kmurphy@goeforlaw.com, rgoe@goeforlaw.com;goeforecf@gmail.com

Robert P Goe on behalf of Plaintiff The Huntington Beach Gables Homeowners Association
kmurphy@goeforlaw.com, rgoe@goeforlaw.com;goeforecf@gmail.com

Jeffrey I Golden (TR) lwerner@wgllp.com, jig@trustesolutions.net;kadele@wgllp.com

D Edward Hays on behalf of Creditor Houser Bros. Co. dba Rancho Del Rey Mobile Home Estates
ehays@marshackhays.com,
ehays@ecf.courtdrive.com;kfrederick@ecf.courtdrive.com;cmendoza@marshackhays.com;cmendoza@ecf.courtdrive.com

D Edward Hays on behalf of Interested Party Courtesy NEF
ehays@marshackhays.com,
ehays@ecf.courtdrive.com;kfrederick@ecf.courtdrive.com;cmendoza@marshackhays.com;cmendoza@ecf.courtdrive.com

D Edward Hays on behalf of Plaintiff Houser Bros. Co.
ehays@marshackhays.com,
ehays@ecf.courtdrive.com;kfrederick@ecf.courtdrive.com;cmendoza@marshackhays.com;cmendoza@ecf.courtdrive.com

Brandon J Iskander on behalf of Creditor The Huntington Beach Gables Homeowners Association
biskander@goeforlaw.com, kmurphy@goeforlaw.com

Brandon J Iskander on behalf of Plaintiff The Huntington Beach Gables Homeowners Association
biskander@goeforlaw.com, kmurphy@goeforlaw.com

Eric P Israel on behalf of Trustee Jeffrey I Golden (TR)
eisrael@DanningGill.com, danninggill@gmail.com;eisrael@ecf.inforuptcy.com

Laila Masud on behalf of Interested Party Courtesy NEF
lmasud@marshackhays.com, lmasud@ecf.courtdrive.com;kfrederick@ecf.courtdrive.com

Laila Masud on behalf of Plaintiff Houser Bros. Co.
lmasud@marshackhays.com, lmasud@ecf.courtdrive.com;kfrederick@ecf.courtdrive.com

Mark A Mellor on behalf of Defendant Randall L Nickel
mail@mellorlawfirm.com, mellormr79158@notify.bestcase.com

Mark A Mellor on behalf of Interested Party Courtesy NEF mail@mellorlawfirm.com, mellormr79158@notify.bestcase.com

Valerie Smith on behalf of Interested Party Courtesy NEF claims@recoverycorp.com

United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov



UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION

In re:

Jamie Lynn Gallian,

Debtor(s).

Janine Jasso,

Plaintiff(s),

v.

Jamie Lynn Gallian,

Defendant(s).

Case No.: 8:21-bk-11710-SC

CHAPTER 7

Adv No: 8:21-ap-01096-SC

**ORDER CONTINUING HEARING ON
MOTION TO DISMISS**

Continued Hearing:

Date: January 10, 2023

Time: 1:30 PM

Courtroom: 5C

The hearing on Debtor's Motion to Dismiss Complaint filed November 8, 2022

[Dk. 63] is hereby CONTINUED to January 10, 2023, at 1:30 p.m. Any response is due
14 days prior to the hearing. Replies are due 7 days prior to the hearing.

While the Motion to Dismiss seeks dismissal under FRCP 12(b)(6), the Court will
treat the motion as one seeking relief under FRCP 12(c). As explained by the District
Court in *Daimler Ag v. A Z Wheels LLC*, No. 16-CV-875-JLS (MDD), 2017 U.S. Dist.

1 LEXIS 231381, at *4-5 (S.D. Cal. Nov. 27, 2017):

2
3 The present Rule 12(b)(6) Motion is untimely, as Defendants answered the
4 Complaint prior to bringing the Motion. See Fed. R. Civ. P. 12(b) (providing that a
5 Rule 12 motion "must be made before pleading if a responsive pleading is
6 allowed"). However, the Court construes Defendants' Rule 12(b)(6) Motion as a
7 motion for judgment on the pleadings under Rule 12(c). District courts in this
8 circuit can treat improperly filed motions to dismiss as motions for judgment on
9 the pleadings. See *Aldabe v. Aldabe*, 616 F.2d 1089, 1093 (9th Cir. 1980); see
10 *Dynetix Design Sols. Inc. v. Synopsys Inc.*, No. CV 11-05973 PSG, 2013 WL
11 2239445, at *3 (N.D. Cal. May 21, 2013) (construing post-answer Rule 12(b)(6)
12 motion as a Rule 12(c) motion). "Analysis under Rule 12(c) is substantially
13 identical to analysis under Rule 12(b)(6) because, under both rules, a court must
14 determine whether the facts alleged in the complaint, taken as true, entitle the
15 plaintiff to a legal remedy." *Chavez v. United States*, 683 F.3d 1102, 1108 (9th
16 Cir. 2012) (internal quotation marks and citation omitted). Thus, the Court
17 analyzes Defendants' arguments under Rule 12(c).

18
19
20
21
22
23
24
25 *Daimler Ag v. A Z Wheels LLC*, No. 16-CV-875-JLS (MDD), 2017 U.S. Dist. LEXIS
26 231381, at *4-5 (S.D. Cal. Nov. 27, 2017).

27 IT IS SO ORDERED.

28
29
30
31
32
33
34
35 Date: December 2, 2022


36 Scott C. Clarkson
37 United States Bankruptcy Judge

1 **NOTICE OF ENTERED ORDER AND SERVICE LIST**

2 Notice is given by the court that a judgment or order entitled (specify) **ORDER CONTINUING**
3 **HEARING ON MOTION TO DISMISS** was entered on the date indicated as "Entered" on the first
page of this judgment or order and will be served in the manner indicated below:

4 **I. SERVED BY THE COURT VIA U.S. MAIL:** A copy of this notice and a true copy of this judgment or
5 order was sent by U.S. Mail, first class, postage prepaid, to the following person(s) and/or entity(ies) at
the address(es) indicated below:

6 **Janine Jasso**
7 PO Box 370161
El Paso, TX 79937